



BARRY I. LEVY

PARTNER

(516) 357-3149

barry.levy@rivkin.com

February 26, 2011

BY ECF

Honorable I. Leo Glasser
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

**Re: Government Employees Insurance Co. et al. v. Hollis Medical Care, PC, et al.
Docket No. CV 10-4341 (ILG)(RML)
Our File No.: 005100-00023**

Dear Judge Glasser:

We represent Plaintiffs Government Employees Insurance Co., GEICO Indemnity Co., GEICO General Insurance Company, and GEICO Casualty Co. (collectively "Plaintiffs" or "GEICO") in the above-referenced matter.

I write to request an in-camera conference with the Court to discuss specific references on pages 1-2 of the reply brief filed on behalf of Defendants, Simon Davydov, Mikhail Davydov, Ruben Davydov, Emanuel David, Berta Nektalov and Sophia David (hereinafter the "Management Defendants") in support of the pending motion to dismiss.

In reviewing the reply brief, I noted the Management Defendants' counsel's reference to a matter entitled Metropolitan Property & Casualty Insurance Company v. Richard Rizutti, M.D., et al., Docket No.: 09-CV-2676 (JFB)(EDNY)(the "Metropolitan Litigation") which was resolved almost 2 years ago. The Management Defendant's counsel's characterization regarding how the Metropolitan Litigation progressed and ultimately concluded is grossly inaccurate, and we believe that the disclosure of that information in the reply brief as well, as the settlement, violates the terms and spirit of the confidentiality provision in the settlement agreement signed in that case.

In order to correct the record and respond to the misstatements made by the Management Defendants' counsel in its reply brief, we would have to risk a potential breach of the confidentiality provision in the Metropolitan Litigation settlement agreement.

926 RXR Plaza
Uniondale, NY
11556-0926
Tel: 516.357.3000
Fax: 516.357.3333

555 Madison Avenue
New York, NY
10022-3338
Tel: 212.455.9555
Fax: 212.687.9044

21 Main Street • Court Plaza South
West Wing • Suite 158
Hackensack, NJ 07601-7021
Tel: 201.287.2460
Fax: 201.489.0495



Honorable I. Leo Glasser

February 26, 2011

Page 2

The Management Defendants' counsel is aware of the confidentiality provisions and our position regarding disclosure as: (i) they were also counsel for the non-physicians in the Metropolitan litigation, and (ii) filed the same exact brief in another matter before Judge Irizarry entitled *Government Employees Insurance Co. et al. v. Government Employees Insurance Co. et al. v. Gabinskaya, et al.*, Docket No. CV 10-4286(DLI)(MDG)(the "Gabinskaya Litigation"), which prompted a February 18, 2011 letter to Judge Irizarry similar to the present letter to Your Honor.¹ I have also spoken with Steven Harfenist, Esq., who served as counsel for Dr. Rizutti and the professional corporation in the Metropolitan Litigation in order to identify my concerns.

I have been contacted by the Management Defendants' counsel who has indicated that they are prepared to file a corrected reply brief. However, Mr. Harfenist would like to have an in-camera conference with the Court to address the issues as would I, as I believe that the reply brief creates a series of false impressions that were designed to impugn the integrity of myself and my law firm as well as to create the impression that the present litigation has no merit.

The Court's attention to this request is appreciated.

Very truly yours,

RIVKIN RADLER LLP

Barry I. Levy

Barry I. Levy

cc: All counsel (by ECF)
Steven Harfenist, Esq. (by e-mail)

¹ I would note that the reply brief filed in this case is largely a cut and past job from the other case – indeed the signature line refers to Defendant, Mikhail Zemylansky who is the Defendant in the Gabinskaya litigation.